



TOWN OF NORTHBOROUGH Conservation Commission

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ACCEPTED
3/11/19

Conservation Commission

Meeting Minutes

February 11, 2019

Members Present: Greg Young (Chairman), Diane Guldner, Kelley Marston, Tom Beals (arrived 7:21 p.m.), Wayne Baldelli

Members Absent: Todd Helwig, Justin Dufresne

Others Present: Mia McDonald (Conservation Agent), see attached Sign-In Sheet

The Chair opened the meeting at 7:00 p.m. and made an announcement that the meeting is being recorded and to mute cell phones.

Ms. Guldner read into record the hearing notice for the Notice of Intent application for Berlin Land Realty Trust, 5 Bearfoot Road, to construct a child daycare facility.

Ms. Guldner made a motion to approve the Minutes of January 14, 2019; Mr. Beals seconded; the Commission voted 4-0 in favor; motion approved; Mr. Baldelli abstained from voting.

Request for Determination of Applicability (continued) – 0, 329 & 333 West Main Street; Map 81 Parcels 13, 14 & 15

Applicant: Labadini Corporation

Request: Creation of a new underground infiltration system and paving of existing parking area and associated site work.

Jurisdiction: Buffer zone to bordering vegetated wetlands.

The applicant requested a continuance to the March meeting. Ms. Marston made a motion to continue the hearing to the March 11th meeting; Ms. Guldner seconded; all voted in favor; motion approved.

Notice of Intent – 5 Bearfoot Road; Map 30, Parcel 33

Applicant: Berlin Land Realty Trust

Request: Construction of a child day care facility with associated parking lot, grading, stormwater management and associated site work.

Jurisdiction: Buffer zone to bordering vegetated wetlands.

Scott Goddard (Goddard Consulting) said the property is located at the intersection of Bearfoot Road and Solomon Pond Road; it is two acres in size; there is frontage on both streets; it has an **irregular** shape. He showed where the BVW is, which was identified as a resource area under the Mass Wetlands Protection Act, Northborough Wetland Protection Bylaw, and confirmed under the ANRAD proceedings. Mr. Goddard stated that the property has been designed to support a daycare facility, which he believes is exempt under zoning. The land is zoned for industrial use. The proposed building will be approximately 3,500 square feet. The parking for the building is largely outside the buffer zone. Mr. Goddard pointed out the shaded sections on the plan (the wetlands, no disturb 15-foot buffer zone, no structure buffer zone and the 100-foot buffer zone) which are subject to the jurisdiction of the Commission; any other activities proposed on the site are outside the jurisdiction of the Commission.

The exit to the parking lot on Bearfoot Road is within the buffer zone (all outside of the no structure zone); pervious paver access around the building and walkway access to the building (the building being kept out of the no structure zone); minor grading around the perimeter to allow perimeter access; two stormwater infiltration beds; and a small playground area in the back on top of the stormwater area. The DEP has not yet issued a file number; abutter notification was received.

Mr. Young said the Commission's main concern is keeping the stream flow available for the pond because it is the outlet to the pond that runs through it. Mr. Goddard explained where the pipes will be and where the outlet is; there is no proposed alteration to any of the offsite drainage. All utilities are on Bearfoot Road. Mr. Young asked if any portion of the project included structures within the 30-foot buffer. Mr. Goddard said to get around the building a small retaining wall is proposed and the wall is under 4-feet; Mr. Baldelli stated that if the structure will not require a building permit, then it is allowed within the 30-foot buffer. Ms. Guldner asked about the parking situation and how far from the corner is the exit. Mr. Goddard replied that it is 200-feet off the intersection. Ms. Guldner would prefer to have the entrance and exit on the far end; Mr. Goddard will discuss that with the Planning Board. Mr. Goddard was asked if he would be bringing in fill. He did not have the answer since the cuts and fills analysis has not been done, but said because the land slopes he believes fill will be brought in to raise it. Ms. Guldner asked how the contractors are going to keep their vehicles off the road and keep the road clean during construction. Mr. Goddard said there is a portion of the site that is flat with a depression and felt it could self-contain any runoff and could be used for storage outside of the buffer zone. Ms. McDonald asked if he had a zoning interpretation from the Building Inspector; Mr. Goddard stated he has not met with the Building Inspector to complete a zoning interpretation yet. Ms. McDonald suggested getting a preliminary review from the other boards since it is a complicated project.

Mary Bassett (3A Pond View Way) said the Commission is charged with protecting the wetlands related to water resources and adjoining land areas in Northborough as mandated by the Wetlands Protection Act and Northborough's Wetlands Bylaws; this project is partially located in the buffer zone and construction is required in the buffer zone; Ms. Bassett stated she believes the project is attempting to take as much of the property as logistically can, leaving it surrounded by wetlands. She asked the Commission to not allow this building to be so close to the wetlands that it requires building a retaining wall because she believes it is the kind of project that is likely to have significant or cumulative effect upon the wetlands' value protected by the Northborough Wetlands Bylaws. She said they are asking to keep the construction activities and the construction itself out of the wetland areas; she believes the activity alters the wetlands. Mr. Young said the Commission's charge is to find the balance to maintain wetland protection and development. He explained that the Commission has a 15-foot no disturb where nothing can be built, and between 15-feet and 30-feet no structures can be built in place to protect the wetland resource areas; this project remains outside these buffer zones. Janet Sandstrom (1B Pond View Way) said the fence location will impede the turtles and small animals in the wetlands. Ms. Sandstrom said they live on the pond and that the culvert drains into the wetlands. Mr. Goddard said there is a culvert that comes from Pond View Way but he does not have confirmation that it comes from the pond; they also have a discharge pipe that goes under Solomon Pond Road; he said it is on her property; it is an existing condition. Mr. Young said he wanted to make sure that the channel is not going to be affected by this proposal. Bill Donovan (3 Pond View Way) asked how large the holding tank was. Ms. McDonald said both the roof drywell and the infiltration system in the parking lot were designed to not overflow in the 100-year storm; it is oversized.

Mr. Baldelli asked if there was a Natural Heritage report. Mr. Goddard said there are no endangered species there. Ms. Marston asked about the mosquitoes and said day cares near wetlands need to have a pest management plan for mosquito control and asked if that would belong in the maintenance plan.

Items to be addressed: dumpster location, cuts/fills analysis, pest management plan, and results from other boards. The applicant requested a continuance. Mr. Beals made a motion to continue 5 Bearfoot Road, Map 30, Parcel 33; Mr. Baldelli seconded; all voted in favor; motion approved. The public hearing was continued to March 11th.

Requests for Certificates of Compliance:

14 & 16 Whitney Street; Map 54, Parcels 37 & 96; DEP File #247-1133 – Mr. Baldelli made a motion to issue Certificates of Compliance for 14 & 16 Whitney Street contingent upon pending administrative issues (need as-built plan with elevations and statement from the engineer that the drainage was built in compliance and is functioning as designed) and 78 (now 82) Maple Street; Map 64/65, Parcel 91/32 (now Map 65, Parcel 103); DEP File #247-0966; Mr. Beals seconded; all voted in favor; motion approved.

Other Business:

432 Whitney Street Update – A Developmental Review Meeting was held with Mr. Anza on January 24, 2019 and a summary letter sent to Mr. Anza on February 6, 2019. The proposed scope still contains that he would like to develop a pasture (new agriculture in a buffer zone) and would like to develop a new access road without additional fill. He is proposing to remove the 3,000 cubic yards of material located within the proposed driveway location. The summary letter stated that a full NOI with engineered plans would be required for the road. The pasture needs an RDA or can be included as a phase in the NOI. Ms. Guldner asked if the driveway access road is what he is using now. Ms. McDonald said there is an existing cart path which eventually branches off into the new access driveway. Mr. Anza has also received a Cease and Desist from the Zoning Enforcement Officer.

Abutter Jonathon Gorham said when he first brought in the material he was asked to stop; he is now making it into a road. He is using that road as an access to the rest of the property. Mr. Gorham said he knows he would have to file engineered plans to do it properly, but based on the long history dealing with him, it is not likely to happen. Ms. McDonald said nothing has gotten into the wetlands as yet. The Commission gave Mr. Anza permission to work outside the 15-foot buffer and unless he gets in the wetlands, there are not many enforcement mechanisms other than to require him to file a permit for work in the buffer zone. He has been ordered to cease work. The Commission would like to handle it as long as they can before turning it over to the DEP. Mr. Anza has hired Ron Jacobs of LBP Solutions (an environmental firm) who will be filing for a permit with the Commission.

Informal Discussion:

82 Coolidge Circle – John Grenier said it is an existing three-bedroom home; the brook runs in the back; there is a wetland that runs along the rear portion of the lot. He showed the 100-foot buffer and the 200-foot to the brook. There is an existing septic within the 100-foot buffer bordering the brook; they have not had a Title 5 inspection, but it is not in good shape. The homeowners would like to put on an addition. They want to relocate the septic system in the front on the right. It would be closer to the outer riparian to the brook. The homeowners would like to make it a five-bedroom home. They want to bring it as far away as possible from any resource areas. Mr. Baldelli said we should be going by the 100-foot to the wetland. Mr. Grenier said they can meet the state code (50-feet), they would be improving it by bringing it further away, and by relocating it and pumping it, they will raise it up, get separation to groundwater (it will be more expensive because they will have to pump it). The addition will be outside the 30-foot and will meet all the regulations. Relocating the septic will make it more compliant with Title 5. Mr. Baldelli said he would be amenable if they can get the variance to go closer to the front, a street light, a street sign, and there would be an improvement to the resource areas. Mr. Grenier said they will

add an impervious barrier so there would not be any seepage towards the resource area. They will try to squeeze it as close as possible to the street line. Ms. McDonald said they will need a full NOI and wetland delineation.

Wetlands Bylaw & Regulations Update – Ms. McDonald stated that the bylaw and regulations updates shall take place within the public meetings of the Commission or a published meeting of a Subcommittee, which shall require agenda postings and meeting minutes. Ms. McDonald summarized the Commission’s previous priorities; the Commission has expressed their priorities for changing the bylaw regulations to update the bylaw and regulations to consistently support the protection of an isolated vegetated wetland as a jurisdictional area, to update the setbacks and update the fees. She asked if they had any additional priorities they would like included in that discussion or if the public does, we would like to hear that at this public meeting. Bonding was discussed. No change is needed, but Mr. Beals suggested reminding applicants that there is the option for the Commission to require a bond (a percentage of the project) and it be included with the Order of Conditions. Enforcement was discussed. Mr. Beals said the fees are suitable but we don’t use it very often and his thought is that we should write a ticket every day and deliver it; it gives us some leverage.

Ms. McDonald asked if the Commission wants to better define isolated vegetated wetlands; the Commission agreed. The bylaw needs to be changed. She put in a request for an article on the town warrant. Three words need to be included to the Applicability section of the Bylaw: “isolated vegetated wetland,”. Mr. Beals made a motion to submit the article request as written to town meeting; Ms. Guldner seconded; all voted in favor; motion approved.

Setbacks, fees and definitions are regulation updates and do not require town meeting vote. The public is invited to attend all Subcommittee meetings. The next Subcommittee meeting will be held Tuesday, March 26th at 6:30 p.m.

Ms. McDonald discussed possible fee changes with the Town Planner and the Town Administrator; it was suggested she complete a fee study. Regarding setbacks, staff recommends based on input from the Commission, that the Commission possibly adopt a 25-foot no-touch zone. It will go from wetland delineation to 25-feet nothing happens. Mr. Beals would like to better define structure. Ms. McDonald researched other towns and none had a 15-foot or 30-foot; most had 20-feet or 25-feet. She said when the Commission finalizes the changes, they should be sent to Town Counsel for review and then a legal ad posted for the next month. Staff members did strongly recommend that if we are going to town meeting that we have the regulations in place to support those changes when the bylaw goes into effect. If the bylaw changes passes, the regulations should support it.

Mr. Baldelli asked if the Commission had a quote for the siphon system for the pond. Ms. McDonald will follow up with the engineer.

The next meeting is scheduled for March 11, 2019.

Mr. Baldelli made a motion to adjourn; Ms. Guldner seconded; all voted in favor; motion approved. The meeting adjourned at 9:08 p.m.

Respectfully submitted,

Melanie Rich
Commission Secretary